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Patent Administrator
FMC Corporation
1735 Market Street
Philadelphia, PA 19103

In re Application of
THIELE, et al.
U.S. Application No.: 09/830,617
PCT No.: PCT/DE99/03474
Int. Filing Date: 02 November 1999
Priority Date: 03 November 1998
Attorney Docket No.: 60210
For: CIRCULAR METHOD FOR PICKLING
COPPER AND COPPER ALLOYS

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's facsimile correspondence filed 17 March 2004 in the United States Patent and Trademark Office (USPTO). The correspondence is being treated as a petition under 37 CFR 1.181. No petition fee is due. It is noted that the communication was not signed by an individual registered to practice before the USPTO and is therefore considered an unsigned communication.

BACKGROUND

On 02 November 1999, applicant filed international application PCT/DE99/03474 which claimed priority to an earlier application filed 03 November 1998. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 03 May 2001.

On 27 April 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and an unexecuted declaration of the inventors.

On 11 June 2001, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. In addition, applicant was advised of the need to provide an English translation of the international application and pay appropriate fees. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees. On 11 January 2002, this application became abandoned as to the United States for failure to respond to the Form PCT/DO/EO/905 within the time period provided.

On 17 March 2004, applicant faxed the present communication along with an English translation of the international application; an executed combined declaration and power of attorney and a certificate of mailing signed by a Ruth Curran.

DISCUSSION

The present filing is not signed by a registered practitioner nor does it contain a cover letter. It appears to be a petition to accept the papers filed 17 March 2004 as true and complete copies of papers purportedly filed 15 August 2001. As the present application is currently abandoned in the United States. The filing is being considered a petition under 37 CFR 1.181 to withdraw the holding of abandonment and accept the papers filed 17 March 2004 as true and complete copies of papers purportedly filed 15 August 2001.

Applicant is advised that the best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. It appears from the present filing that applicant's contention is that the papers in question were mailed by first class mail and not received by the USPTO. This situation is addressed under 37 CFR 1.8(b)-(c):

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

Applicant has satisfied items (1) and (2) above. In order to withdraw the holding of

abandonment and proceed in the U.S. national stage, applicant is required to provide a statement as detailed in item (3) above. Applicant should also attest that the papers filed 17 March 2004 are true and complete copies of the papers filed 15 August 2001.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.181 is **DISMISSED without prejudice**.

This application remains abandoned as the United States of America.

Any reconsideration on the merits of this petition must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." In order to be considered the renewed petition must be signed by an agent or attorney registered to practice before the USPTO.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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